

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

May 28, 2003

LB 285, 759

page 1675.)

SENATOR CUDABACK: Senator Mossey, for a motion.

SENATOR MOSSEY: Mr. President, I move the adoption of E & R amendments to LB 285.

SENATOR CUDABACK: You heard the motion to adopt E & R amendments. All in favor of that motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Senator Brashear would move to amend with AM2109. (Legislative Journal pages 2066-2067.)

SENATOR CUDABACK: Senator Brashear, to open on AM2109 to LB 285.

SENATOR BRASHEAR: Thank you, Mr. President, members of the body. Obviously, and of course, I have Senator Landis' consent...he'll speak for himself...but his consent to do what I'm doing. The amendment to LB 285 as proposed would gut LB 285 and use it as a vehicle for a minor amendment in the nature of what I would call a technical correction to LB 759, which we treated yesterday on the floor. When we drafted the bill, we adopted the definition of "contractor" from the existing Department of Revenue regulations, for reasons of continuity, uniformity, and clarity. In doing so, we inadvertently incorporated a concept that is not entirely appropriate for the context of the provisions of LB 759, and could potentially create a loophole. I'm not suggesting or conceding on the record that it is a loophole. I'm indicating that the Department of Revenue and those who review these things have indicated the potentiality. The definition of "contractor" is important in this total context because it is the labor of a contractor that is subjected to the sales tax of LB 759. For purpose of existing law, a contractor is defined as a person who incorporates such person's own building materials into real property. Leaving this language, "such person's own," in place could create a loophole whereby the sales tax could be avoided by having the property owner purchase the materials, rather than the contractor. Although most property owners would not wish to